

REMARKS

Applicants request the Examiner to enter their claims, to reconsider all objections and rejections, and to allow their application.

Amended claim 7 relates to allowed claim 1 in the parent application. Amended claim 7 recites a “liquid coating syrup.”

Claims 12-13 have been canceled.

New claims 14-20 relate to subject matter allowed in the parent case, but are presented herein as proper process claims consistent with the requirement for restriction.

Claim 21 is similar to previously presented claim 1 but recites the preparation of a liquid mixture, applying that liquid mixture to a moving mass of cores to obtain coated cores whereby the product is obtainable. The claim recites a liquid mixture having 1-50% w/w erythritol, and also sorbitol, with the % w/w on a dry basis.

Claims 7-11 and 14 *et seq.* define novel, unobvious inventions over EP 0813817 A2 and also over U.S. Patent No. 6,017,967 (Rosenplenter).

Claim 7 recites a liquid mixture. This feature is neither described by nor suggested by the Rosenplenter references. The Examiner has apparently opined the reference(s) refer to liquid sorbitol containing crystalline erythritol. In fact, however, according to the references, solid crystalline erythritol is dusted on a previously formed layer of sorbitol. The Rosenplenter references do not refer to preparing a liquid syrup or liquid mixture of sorbitol and erythritol, but instead refer to separate addition of crystalline xylitol (USP 6,017,967, column 2, last lines) or a separate addition of crystalline erythritol (EP 0813817 A2, column 4, Abstract).

More particularly, Rosenplenter does refer to applying sorbitol only syrup to cores (column 3, lines 1 *et seq.*), and separately, physically applying solid crystalline materials on the sorbitol coated cores. The sorbitol forms a thin film on the surface of the cores and after the cores are moistened by the sorbitol, a small portion of crystalline xylitol, Isomalt, maltitol or

erythritol is brought on the surface of the thin film of sorbitol that ‘moistened’ the cores (column 3, lines 13- 35). This is entirely consistent with the Example at column 4, lines 27-30 (sorbitol applied and separately crystalline erythritol applied on top of the sorbitol layer). This reference does not suggest or describe the liquid mixture of sorbitol and erythritol, or the homogeneous layer as obtainable by the present process.

The hard coating of Rosenplenter (EP 0813817 A2) is heterogeneous and has large erythritol crystals randomly dispersed in a sorbitol matrix. These characteristics are undeniably shown in the Declaration of record (filed October 4, 2002) in the parent application and in a Comparative Example in the specification at pages 10-11.

Furthermore, the scope of both the Declaration of record in the parent application and the data presented in Table 2, Trial 1, and Figure 3 of the specification are reasonably commensurate with the scope of the pending claims, and are illustrative of the patentable distinction between comestibles produced by the method according to the cited references (Rosenplenter) and the presently claimed process for producing comestibles.

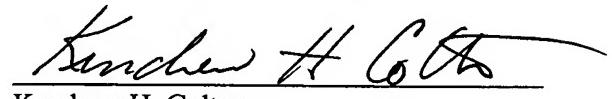
In short, Rosenplenter reference does not disclose and does not suggest a process for producing a sugar-free hard-coated comestible having a hard coating, wherein at least one layer of the hard coating is obtained from a liquid mixture, which comprises a mixture of sorbitol and erythritol and which, on a dry substance basis, comprises sorbitol and erythritol, such as about 60% w/w sorbitol and 40% w/w erythritol, as in claim 7 or the claim 22 process. For that matter, Rosenplenter does not suggest or disclose that the layer formed by the sorbitol coating dusted with solid crystalline material is homogeneous.

If the Examiner has any questions, please telephone Applicants' legal representative to arrange for an interview.

Applicants respectfully submit that their claims are in condition for allowance and notice to such effort is respectfully solicited.

Respectfully submitted,

Fitch, Even, Tabin & Flannery


Kendrew H. Colton
Kendrew H. Colton
Registration No. 30,368

Date: December 19, 2005

OFFICIAL CORRESPONDENCE TO
Customer No. 42798
FITCH, EVEN, TABIN & FLANNERY
1801 K Street NW, Suite 401L
Washington, DC 20006
Tel: (202) 419-7000, Fax: (202) 419-7007